

PS

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

STEVEN C. FORSHEY,

Plaintiff,

ORDER

v.

21-CV-6619DGL

MICHAEL A. GUARINO and JEFFREY R.
MARTIN,Defendants.

This is an action under 42 U.S.C. § 1983 filed by *pro se* plaintiff Steven C. Forshey (“Plaintiff”), who is currently in the custody of the New York State Department of Corrections and Community Supervision (“DOCCS”) at Gouveneur Correctional Facility. Plaintiff has been granted *in forma pauperis*. On January 20, 2022, the Court found that the complaint failed to state a claim upon which relief could be granted and, in the alternative, appeared to be barred by the favorable termination rule in *Heck v. Humphrey*, 512 U.S. 477 (1994). (Dkt. # 7 at 7-11). Plaintiff was informed that the complaint would be dismissed without prejudice pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A if he failed to file an amended complaint within 45 days. (*Id.* at 12).

Since then, Plaintiff has requested and received at least half a dozen extensions of time in which to file his amended complaint. (*See* Dkt. ## 8, 10, 12, 14, 16, 22, 25 (extension motions)). Most recently, on April 12, 2023, the Court granted Plaintiff an additional 120 days to submit his amended complaint based on his allegation that he was confined in the Special Housing Unit with an expected release date of May 24, 2023. (Dkt. # 27). The Court indicated that no further extensions would be granted. (*Id.* at 1).

The 120-day deadline expired on August 10, 2023. Plaintiff has not filed an amended complaint. According to the terms of the original screening order, the complaint is DISMISSED WITHOUT PREJUDICE pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this order would not be taken in good faith and leave to appeal *in forma pauperis* is denied. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962). Further requests to proceed on appeal *in forma pauperis* should be directed United States Court of Appeals for the Second Circuit in accordance with Fed. R. App. P. 24.

The Clerk of Court is directed to close this case.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "David G. Larimer", is written over a horizontal line.

DAVID G. LARIMER
United States District Judge

Dated: Rochester, New York
November 6, 2023.